

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)

WAI`OLA O MOLOKA`I, INC. )

DOCKET NO. 2009-0049

For Review and Approval of Rate )  
Increases; Revised Rate Schedules; )  
And Revised Rules. )

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ORDER DISMISSING STAND FOR WATER AS AN INTERVENOR

FILED

2010 JAN 27 A 11:55

PUBLIC UTILITIES  
COMMISSION

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\_\_\_\_\_ )

By this Order, the commission, on its own motion, dismisses STAND FOR WATER ("SFW") as an intervenor in this proceeding.<sup>1</sup>

On October 16, 2009, the commission granted intervention to SFW based on its representation that its intervention would assist the commission in developing a sound record and that it would secure representation from an attorney in good standing and licensed to practice before the Hawaii Supreme Court. In addition, the commission expressly stated that

'With the dismissal of SFW, the remaining Parties are WAI'OLA O MOLOKA'I, INC. ("WOM"), MOLOKAI PROPERTIES LIMITED, the COUNTY OF MAUI, and the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, an ex officio party to this proceeding, pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62(a).

SFW's intervention in this proceeding would be reconsidered if the commission determines that SFW is unduly delaying this proceeding.

To date, the docket record reveals the following:

1. There is no evidence that SFW secured representation from an attorney in good standing and licensed to practice before the Hawaii Supreme Court, as represented.

2. The deadline for SFW to timely submit its proposed prehearing order was October 28, 2009. Instead, SFW belatedly submitted its proposed procedural order on October 29, 2009; thus, SFW's untimely filing was not considered by the commission.<sup>2</sup>

3. The deadline for the parties to submit their amended protective order to the commission was November 13, 2009. SFW did not submit its proposed amended protective order, or otherwise join in the amended protective order timely and jointly proposed by the other parties.

4. By letter dated November 19, 2009, the commission instructed SFW to confirm to the commission, by November 30, 2009, whether it was withdrawing as an intervenor in this proceeding. SFW did not comply with the commission's directive.

5. The deadline dates for SFW to submit its initial and supplemental information requests were November 12, 2009 and December 9, 2009, respectively. SFW did not issue any information requests to WOM.

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<sup>2</sup>See Order Approving Proposed Procedural Order, as Modified, filed on November 6, 2009 ("Procedural Order") at 2 n.5.

6. The deadline for SFW to file its direct testimonies and exhibits was January 8, 2010. SFW did not file any direct testimonies or exhibits, notwithstanding the fact that in its motion to intervene, which formed the basis for the commission's decision to grant SFW intervenor status, SFW listed seven "expert" witnesses on its behalf. Without SFW's timely direct testimonies and exhibits, SFW has failed to present any evidence or arguments to which WOM may have the opportunity to rebut as part of the water utility's forthcoming rebuttal testimonies and exhibits.<sup>3</sup>

Based on these findings, the commission ultimately finds and concludes that SFW has failed to contribute to the development of a sound record, meaningfully participate in this proceeding, or follow the commission's orders and directives. Accordingly, the commission, on its own motion, dismisses SFW as an intervenor in this proceeding.

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<sup>3</sup>Section IV of the exhibit attached to the commission's Procedural Order states in respective part:

Witnesses shall submit pre-filed written testimony and exhibits and shall be made available for cross-examination at the hearing. Witnesses shall file with their pre-filed written testimony and exhibits, the work papers used in preparing the evidence they sponsor at the hearing. Witnesses will not be permitted to read pre-filed testimony at the hearings[.]

Procedural Order, Exhibit/Section IV, at 5 (emphasis added); see also HAR § 6-61-45 (prepared testimony).

II.

Orders

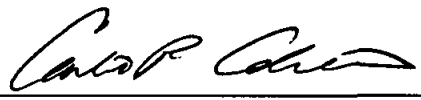
THE COMMISSION ORDERS:

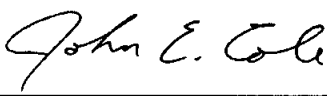
1. Stand for Water is dismissed as an intervenor in this proceeding.


2. Following the issuance of this Order, Stand for Water shall be removed from the commission's service list for this proceeding.

DONE at Honolulu, Hawaii JAN 27 2010.

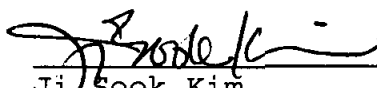
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By:   
Carlito P. Caliboso, Chairman

By:   
John E. Cole, Commissioner

By:   
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:

  
Ji Sook Kim  
Commission Counsel

2009-0049.laa

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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